

# Wetlands Bureau Decision Report

Decisions Taken  
10/17/2005 to 10/23/2005

## **DISCLAIMER:**

This document is published for information purposes only and does not constitute an authorization to conduct work. Work in jurisdiction may not commence until the applicant has received a posting permit.

Decisions are subject to appeal, and are reviewed by the federal agencies for compliance with Section 404 of the Federal Clean Water Act.

## **APPEAL:**

I. Any affected party may ask for reconsideration of a permit decision in accordance with RSA 482-A:10,II within 20 days of the Department's issuance of a decision. Requests for reconsideration should:

- 1) describe in detail each ground for complaint. Only grounds set forth in the request for reconsideration can be considered at subsequent levels of appeal;
- 2) provide new evidence or information to support the requested action;
- 3) Parties other than the applicant, the town, or contiguous abutters must explain why they believe they are affected; and
- 4) Be mailed to the DES Wetlands Bureau, PO Box 95, Concord, NH 03302-0095.

II. An appeal of a decision of the department after reconsideration may be filed with the Wetlands Council in accordance with RSA 482-A:10, IV within 30 days of the department's decision. Filing of the appeal must:

- 1) be made by certified mail to Brian Fowler, Chairperson, Wetlands Council, PO Box 95, Concord, NH 03302-0095 (a copy should also be sent to the DES Wetlands Bureau);
- 2) contain a detailed description of the land involved in the department's decision; and
- 3) set forth every ground upon which it is claimed that the department's decision is unlawful or unreasonable.

## MAJOR IMPACT PROJECT

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**2003-00620                      HUGHES, CAROL**  
**GREENLAND   Pickering Brook**

### Requested Action:

Amend permit to allow for the emergency access road to be constructed in the northwesterly location on the property as originally requested.

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### Conservation Commission/Staff Comments:

Con Comm submitted additional comments 7/18/2003

Con Comm submitted additional comments 9/23/2003

### APPROVE AMENDMENT:

Amend permit to allow for the emergency access road to be constructed in the northwesterly location on the property as originally requested.

Dredge and fill of 288,070 square feet of emergent, scrub-shrub, forested and riverine lower perennial wetlands for the construction of a retail shopping center and associated parking, stormwater controls and road improvements. The applicant is providing compensatory mitigation consisting of 14,192 square feet of on-site forested wetland and stream restoration, onsite preservation of 16.59 acres of wetlands consisting of a mixture of emergent, scrub-shrub, forested wetlands and riverine wetlands and 10.44 acres of uplands and off-site restoration and preservation of 22 acres of forested and scrub-shrub wetlands.

### With Conditions:

1. All work shall be conducted in accordance with plans and supporting documents by Rizzo Associates and Gove Environmental Services Incorporated, revised date of April 18, 2005 and as received by the Department on May 18 and 26, 2005.
2. This permit is contingent on approval by the DES Subsurface Systems Bureau.
3. This permit is contingent on approval by the DES Site Specific Program.
4. This permit is contingent upon receipt of a Water Quality Certification from the DES Watershed Management Bureau.
5. This permit is contingent on approval of the NH Department of Transportation.
6. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau.
7. At least 48 hours prior to the start of construction, a pre-construction meeting shall be held with NHDES Water Division permitting staff at the project site or at the DES Office in Concord, N.H. to review the conditions of this wetlands permit and the NHDES Site Specific Permit. It shall be the responsibility of the permittee to schedule the pre-construction meeting, and the meeting shall be attended by the permittee, his/her professional engineer(s), wetlands scientist(s), and the contractor(s) responsible for performing the work.
8. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized.
9. Silt fencing must be removed once the area is stabilized.
10. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
11. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
12. All refueling of equipment shall occur outside of surface waters or wetlands during construction and the contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
13. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
14. Proper headwalls shall be constructed within seven days of culvert installation.
15. Culvert outlets shall be protected in accordance with the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

16. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
17. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
18. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
19. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992)

Wetlands construction:

20. This permit is contingent upon the successful restoration/creation of 972,512 square feet (14,192 square feet on-site and 958,320 square feet off-site) of wetlands in accordance with plans received May 18 and 26, 2005.
21. The schedule for construction of the mitigation area shall coincide with site construction unless otherwise considered and authorized by the Wetlands Bureau.
22. The mitigation area shall be properly constructed, monitored, and managed in accordance with approved final mitigation plans (not yet received by DES). The permit shall not be effective until DES has received and approved the final off-site mitigation plan.
23. Wetland restoration areas shall be properly constructed, landscaped, monitored and remedial actions taken that may be necessary to create functioning wetland areas similar to those of the wetlands destroyed by the project. Remedial measures may include replanting, relocating plantings, removal of invasive species, changing soil composition and depth, changing the elevation of the wetland surface, and changing the hydrologic regime.
24. The permittee shall designate a qualified professional who will be responsible for monitoring and ensuring that the mitigation areas are constructed in accordance with the mitigation plan. Monitoring shall be accomplished in a timely fashion and remedial measures taken if necessary. The Wetlands Bureau shall be notified in writing of the designated professional prior to the start of work and if there is a change of status during the project.
25. The permittee shall notify DES and the local conservation commission in writing of their intention to commence construction no less than 5 business days prior to construction.
26. The permittee or a designee shall conduct inspection regularly during construction, to review the success of the mitigation area and schedule remedial actions if necessary. A report outlining these follow-up measures and a schedule for completing the remedial work shall be submitted by December 1 of that year. Similar inspections, reports and remedial actions shall be undertaken in at least the second and third years following the completion of each mitigation site.
27. Wetland (on-site restoration) areas shall have at least 75% successful establishment of wetlands vegetation after two (2) growing seasons, or shall be replanted and re-established until a functional wetland is replicated in a manner satisfactory to the DES Wetlands Bureau.
28. The permittee shall delineate the wetlands within the mitigation site, document the delineation with data forms, and depict the delineation as an overlay of the final as-built plans after at least five full growing seasons.
29. Wetland soils from areas vegetated with purple loosestrife (*Lythrum salicaria*) shall not be used in the wetland creation site. The potential for the establishment of the invasive species should be considered in other areas where spoils may be spread to limit its further establishment.
30. The permittee shall attempt to control invasive, weedy species such as purple loosestrife and common reed (*Phragmites australis*) by measures agreed upon by the Wetlands Bureau if the species is found in the on-site mitigation areas during construction and during the early stages of vegetative establishment.
31. A post-construction report documenting the status of the completed project with photographs shall be submitted to the Wetlands Bureau within 60 days of the completion of construction.

Wetland preservation:

32. This permit is contingent upon the execution of a conservation plan showing the areas for proposed protection on 27.02 acres (on-site) and 18.4 acres (off-site) as depicted on plans received by DES on May 18 and 26, 2005.
33. The permit shall provide that the preservation areas shall be written to run with the land, and both existing and future property owners shall be subject to this restriction.
34. The plan noting the conservation areas shall be recorded with the Registry of Deeds Office for each appropriate lot. A copy of the recording from the County Registry of Deeds Office shall be submitted to the DES Wetlands Bureau prior to the start of construction.

35. The applicant shall prepare a report summarizing existing conditions within the conservation area. Said report shall contain photographic documentation of the conservation area, and shall be submitted to the DES and the grantee prior to construction to serve as a baseline for future monitoring of the conservation area.
36. The conservation area shall be surveyed by a licensed surveyor, and marked by monuments [stakes] prior to construction.
37. The Wetlands Bureau shall be notified of the placement of the conservation monuments to coordinate on-site review of their location prior to construction.
38. There shall be no removal of the existing vegetative undergrowth within the conservation area and the placement of fill, construction of structures, and storage of vehicles or hazardous materials is prohibited.
39. Any cutting, clearing, grubbing, grading, or building shall be prohibited in the designated conservation areas.
40. Activities in contravention of the permit conditions shall be construed as a violation of RSA 482-A, and those activities shall be subject to the enforcement powers of the Department of Environmental Services (including remediation, fines and suspension of the permit).
41. To ensure that the restoration as proposed will be carried out, the applicant shall provide a bond or surety to the State of New Hampshire to cover the cost of restoration on-site and off-site.
42. The applicant shall provide a bond or surety to cover the costs of consultation, plan-development, meetings, inspections, consultant analysis and monitoring over a 10 year period as reviewed and approved by the Department of Justice.
43. The amount of the bond or surety will be determined only after DES has reviewed and approved the cost-estimate for restoration to be provided by the wetlands and engineering consultants retained by the applicant to carry out the restoration successfully as required by this permit.
44. Construction under this permit shall not begin until the bond or surety has been reviewed and approved by the Department of Justice.
45. The restoration of the 22 acre Great Bog shall provide for 100% removal of Phragmites after 10 years.
46. The use of pesticide shall be approved by the DES and the Department of Agriculture.
47. Oil/water separators shall be required in the on-site drainage.
48. During the excavation process, a consultant shall review materials removed to ensure that any potential contaminants are screened tested, contained and removed or treated as required by DES, Waste Management Division. A construction and treatment plan shall be reviewed and approved by the Water Management Division prior to construction in uplands or wetlands.
49. A stream diversion plan, for the diversion of Pickering Brook shall be submitted for DES review and approval, prior to start of work.
50. Water quality testing shall be done in accordance with protocol established in the water quality certification process.

With Findings:

Background:

1. Packard Development, LLC ("Packard") filed an application for wetlands impacts in April of 2003 for the construction of a home improvement center, a retail outlet, a supermarket, and associated parking areas and infrastructure. The application included information prepared by Gove Environmental Services ("GES"), acting as agent for Packard.
2. The land where the project is located is in Greenland, New Hampshire approximately 3 miles southwest of the Portsmouth traffic circle and totals 55.95 acres. The property is located in a commercial / industrial portion of Greenland adjacent to Route 33, more particularly described on Greenland tax maps R21 and R279, as lots 44, 44A, 44B, 44C, 44D, and 6 ("the Property").
3. The Property was formerly the site of a Sylvania light bulb manufacturing facility, that has been abandoned for many years. The manufacturing building and several associated parking areas remain. Prior to this industrial use, the property was heavily graded and ditched for agricultural uses.
4. A public hearing on this application was held on July 23, 2003. Testimony from various parties was received at that hearing and has been considered in this decision.
5. Written comments were received after the hearing from concerned citizens, abutters, the Town of Greenland, the City of Portsmouth and CLF.
6. The comments from the public are summarized as follows:
  - a) Concerns with water quality impacts to Pickering Brook; recommending use of oil water separators prior to stormwater discharge

- and questioning the ability of the stormwater treatment area to adequately treat salt, especially during the winter;
- b) Degradation of wetlands and Great Bay;
  - c) Potential for release of TCE;
  - d) Effectiveness of septic system;
  - e) Failure to meet need requirement given size and intensity of project;
  - f) Adequacy of alternatives analysis; claim that it is artificially constrained by not considering smaller scaled development with fewer retail uses;
  - g) Lack of baseline information on water quality and wildlife to assess wetland impacts and impacts to Pickering Brook;
  - h) Application fails to properly assess the impacts of the project on functions and values of Pickering Brook and associated wetland/buffer areas and surface waters;
  - i) Minimization of wetland disturbances related to intersection and access road construction;
  - j) Parking space size;
  - k) Potential impacts of flooding to abutting property.

7. On July 23, 2003, DES received a letter from the Portsmouth Conservation Commission, dated April 24, 2003 opposing the original application as presented for the following reasons:

- a) The fill of 7 acres of wetlands in this location is "unnecessary and unacceptable";
- b) The construction of the project "will result in 25.8 acres of impervious surface";
- c) The "new impervious surface will prevent the infiltration of water into the water table and effectively alter the water cycle in this important area";
- d) The "oil, grease and other inputs related to the automobiles parking in these extensive lots will impact the water quality of Pickering Brook and surrounding wetlands";
- e) The "change in the water cycle in this area could also impact the transport of the contaminated soil on the site."
- f) This "area is in a groundwater management zone for TCE (Trichloroethylene) the alteration of this site could adversely impact the subsurface migration of this chemical".
- g) The commission states "to develop a site so intensively in an area between Great Bay and the Great Bog on the banks of Pickering Brook is certain have adverse impacts and either an alternative site should be sought or a less impacting design should be seriously considered?"
- h) The commission questions why two versus three stores has not been considered;
- i) The commission suggests a reduction in building footprint and parking requirement more appropriate for the scale of the property.
- j) The commission suggests the alternative of a parking structure would avoid the need for significant pavement.

8. On July 23, 2003 DES received a letter dated July 21, 2003 from the Portsmouth Conservation Commission ("PCC") regarding the proposed changes to include an on-site septic system. Additionally, the PCC stated other concerns regarding water quality, including: industrial cleaning supplies, TCE contamination and septic issues.

9. On September 23, 2003 DES received a letter dated September 8, 2003 from the Greenland Conservation Commission ("GCC") stating its concerns about the potential of contamination of Pickering Brook from the proposed project. The GCC strongly recommend that UL approved oil water separators be used prior to storm water being discharged from all drains. Additional concerns were raised regarding impact of salt and setback of septic from wetlands.

10. On August 8, 2005 DES received a letter dated July 11, 2005 from the Greenland Conservation Commission regarding the proposed application. In this letter the GCC recommends that the second emergency entrance be relocated and recommends consideration be given to a third option of underground water storage to serve the same purpose as the retention pond proposed by the City of Portsmouth. Additionally, the GCC recommends that any and all mitigation should take place within the limits of the Town of Greenland.

11. The PCC concerns regarding water quality, runoff, TCE contamination, and septic issues have been addressed through the permit application proposal and design and through permit conditions requiring separate environmental approvals from Waste management Division (TCE issues), Alteration of Terrain (impervious surface, runoff and drainage and on-site versus off site drainage calculations), Subsurface Systems Bureau (regarding proposed septic system) and the Watershed Management Bureau (any impacts to Pickering Brook or associated surface waters through Water Quality Certification).

12. The PCC concerns regarding need, alternatives, impact analysis, minimization and avoidance, and functions and values have been separately addressed in the findings contained in this decision as defined by separate corresponding headings.

13. On July 23, 2005, DES Wetlands program received a letter dated July 16, 2003 from William Evans, Bureau Administrator of the Subsurface Systems Bureau regarding his review of the preliminary copy of the Packard development septic system plan. Mr. Evans states "Based on the information as presented we believe that the septic system can be engineered to meet the requirements of the State's governing statutes and regulations." Additionally, Mr. Evans provides that "as an engineered system, a licensed engineer who is also a permitted designer must stamp the plan and final approval will be based upon the the engineering data presented."

14. The original application was revised April 18, 2005 and plan modifications to reduce impacts to wetlands were filed with DES in May of 2005. Many of the public comments have been addressed through plan redesign and DES permit conditions.

15. The application as submitted was prepared after consultation with local, state, and federal agencies and local advisory commissions.

16. The original application requested 5.21 acres of on-site wetland impacts, and 1.79 acres of off-site wetland impacts associated with improvements to Route 33.

17. The on-site wetland impacts have been reduced to 3.99 acres, a reduction of 1.23 acres. The off-site wetland impacts have been increased due to road improvements as required by NHDOT to 2.62 acres, an increase of .83 acres.

18. Under Section 12.1.3, Items 1-5 (hereinafter section and item numbers refer to the report prepared by GES, April 18, 2005) Packard set out the on-site design requirements for the proposed retail development.

19. On August 19, 2005 DES Wetlands Bureau Administrator, Collis Adams and Staff William Thomas inspected the property and proposed off-site mitigation properties and found that the wetlands delineation, functions and values, and impact analysis were consistent with the information submitted with the application.

#### Need:

20. Wt 302.04(a)(1) provides that for all major impact projects the applicant shall demonstrate by plan and example that the need for the proposed impacts have been demonstrated.

21. The proposed impacts are to provide for site access, roadway expansion necessary to meet NHDOT requirements, and for lot development and NHDOT permit regarding highway and access road requirements.

22. On June 1, 2005 Packard obtained a NHDOT Driveway and Excavation Permit for the project that sets out the standards and requirements for the highway improvements and site access construction.

23. In letters dated March 23, 2004 and May 15, 2005 to DES, Packard provided documentation supporting that in a two-store scenario redevelopment of this site is not financially practicable as it would result in a negative annual cash flow.

#### Avoidance and Minimization:

24. The project has been designed to avoid impacts to wetlands to the greatest extent possible for this development.

25. Packard has exceeded the mitigation requirements and has also provided enhanced water quality treatment, additional setback to Pickering Brook, and additional wetlands restoration and upland buffer plantings beyond what is required to compensate the impacts to the aquatic resources.

26. The Town of Greenland requested that the second emergency entrance be relocated from the northwest to the northeast area of the Property so as to avoid wetland fragmentation. DES has conditioned this permit to require the relocation of this emergency entrance to the location suggested by the Town of Greenland.

#### Alternatives Analysis:

27. Pursuant to Wt 302.03 an applicant is required to submit a statement describing the impact of the proposed project design and provide evidence that demonstrates that potential impacts have been avoided to the maximum extent practicable, and any unavoidable impacts have been minimized. For all permanent impacts that will remain after avoidance and minimization have been addressed the applicant shall submit a compensatory mitigation proposal in accordance with Wt 800.

28. Packard reviewed 15 potential alternate site locations within Greenland, Portsmouth, Newington and Stratham.

29. From the initial pool of sites, 9 sites were selected for intensive analysis using inspections, GIS assessment, infrastructure assessment and conceptual design layouts referencing technical engineering and project design requirements.

30. Packard reviewed potential sites for their ability to meet criteria that would make the site economically feasible. The criteria included: sufficient land area to support 356,935 square feet of buildings and 1,429 parking spaces; topography that would not require excessive earth excavation; local municipal water and sewer or suitable on-site disposal alternatives; local private utility services for gas, electric and telephone; hydrological properties that allow on-site stormwater management without flooding; local

highway infrastructure to support the anticipated traffic volumes; proximity to major thoroughfares in order to reduce the miles traveled on local roadways; and local market demand for the proposed type of retail. Six of the 15 sites were discounted because they did not provide sufficient land area for the proposed project. Eight of the nine remaining sites were discarded for one or more of the following factors: greater wetland impacts; stream impacts; potential impacts to State registered species; site not appropriately zoned or unavailable for retail development; site currently developed and not available; limited highway access; poor visibility; and limited availability of utilities.

31. Packard has provided evidence to demonstrate that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction.

#### Functions and Values:

32. The functions and values in wetland areas 1 through 5 were evaluated by GES and this analysis and the Wetland Function-Value Evaluation Forms are found in Sec. 14 of their 4-18-2005 report.

33. Wetland # 1 (proposed impact 53,674 sq.ft.) is a palustrine scrub-shrub broad-leaved deciduous/emergent persistent wetland located on the eastern portion of the property. Flood flow alteration, sediment and toxicant retention are its primary functions. Wildlife habitat is a lesser function of this wetland.

34. Wetland #2 (proposed impact 11,406 sq.ft.) is a series of four man-made drainage ditches constructed for the purpose of transporting water across the palustrine emergent, scrub shrub wetland on the Property. Its primary function is sediment/toxicant reduction. In an US Army Corps of Engineers (ACOE) memo dated August 19, 2005 they determined that these wetlands "have only very weakly developed wetland characteristics and are of limited function". As such; wetlands 2A, 2B and 2C have been found to be non-jurisdictional by the ACOE.

35. Wetland # 3 (proposed impact 14,352 sq.ft.) is a palustrine/emergent persistent wetland located within the northwestern portion of the Property and has been partially ditched. This appears to be a man-made wetland and its primary function is wildlife habitat. Lesser functions include; flood flow alteration, sediment/shoreline stabilization and nutrient removal.

36. Wetland # 4 (proposed impact 94,408 sq.ft.) is a wet meadow located along the southwestern portion of the Property and the large fallow field at the front of the Property. This wetland has been partially excavated and receives runoff from man-made drainage ditches and the surrounding uplands. The primary function of this wetland is sediment/shoreline stabilization with a lesser wildlife habitat function.

37. Wetland #5 includes Pickering Brook (riverine, lower perennial) and the floodplain associated with Pickering Brook. There are no proposed impacts to Pickering Brook except for restoration of historic impacts to the brook and its floodplain (see mitigation section).

38. The 8 off-site wetland impact areas (2.79 acres of impact proposed) located on either side of Route 33, southwest of the existing site entrance (OS1, OS3, OS5, OS6, OS11a, OS14, OS15 and OS17) were evaluated together due to their similarity in classification as well as their functions and values (see Sec. 14.2.2). These wetlands are man-made roadside ditches associated with the construction and maintenance of Route 33. In their memorandum dated August 19, 2005, the ACOE has determined that wetlands OS1, OS3, OS6, OS11A, OS14, OS15, OS17 are maintained roadway drainage that were built in uplands and therefore are not considered jurisdictional wetlands under the Clean Water Act (CWA). OS5 was built in wetlands and the ACOE has determined that it is jurisdictional under the CWA.

39. Additionally RSA 482-A:3 exemption for the maintenance of man-made drainage ditches was expanded in May 2005 to allow the "cleaning out of main-made drainage facilities to preserve their usefulness, even where wetlands vegetation has become dominant.". By state statute these wetland systems could be maintained in their current location.

#### Impact Analysis:

40. Packard has demonstrated by plan and example that each factor listed in Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.(see Sec. 12)

41. The total land disturbance of the proposed project is approximately 27.57 acres. The project consists of developing 356,935 square feet of retail space, with associated site access, parking, and stormwater treatment.

42. The wetlands on the property have been previously altered by past industrial use and/or past agricultural activities (see Sec. 14.3). During the course of the historic uses, the majority of wetlands on the Property were altered by human activity. This includes the creation of extensive bedding systems to drain wetland areas during farm operations, and extensive grading and filling associated with the industrial development. Additionally, several linear features that now provide very limited wetland functions and values were originally man-made drainage ditches dug in upland soils (see GES letter received 8-26-2005).

43. The current design has reduced on-site wetland impacts by approximately 1.2 acres when compared to the original application proposal.

44. The reduction in wetland impacts was achieved by shifting the overall building envelope northwest, out of the higher

functioning wetlands located along the eastern portion of the property and by reducing the grading through the use of retaining walls. Additionally, a significant reduction in wetland impacts was achieved through the redesign and shifting of the site entrance. Additional reductions will result as a relocation of the emergency access road in accordance with the permit conditions.

45. To accommodate existing traffic congestion and increased regional traffic volumes, the project proposes to make off-site improvements to Route 33. The anticipated increases in traffic volume justify the need to widen portions of Route 33 in order to prevent future traffic congestion to a main route that is currently "over-capacity in certain areas" (see Vol. II of II, Sec. 17.2).

46. The primary function provided by the disturbed wetland areas are sediment and toxicant retention as well as some sediment/shoreline stabilization function associated with the wetlands closer to Pickering Brook (see Vol II of II Sec 17.1.1).

47. The proposed storm water management design compensates for the loss of stormwater functions in the wetlands through several water quality treatment features and two underground detention galleries (see Sec 20 Stormwater Management Design).

48. Water quality treatment is provided to offset lost function in the wetlands, and the subsurface detention system mitigates for possible thermal pollution.

49. The underground detention galleries will release water at a comparable quantity and rate as existing conditions, reducing the probability for downstream erosion, while maintaining hydrology to keep the adjacent wetlands viable.

50. Packard has attempted to reduce impacts to wetlands and provide adequate wetlands impact mitigation through the evolution of five design modifications that incorporated requests made NHDES and other Federal and local regulatory agencies during meetings and discussions conducted over the past three years.

#### On-Site Mitigation:

51. Packard has provided mitigation in accordance with Administrative Rules Chapters Wt 300 and Wt 800. This mitigation specifically provides for preservation of 10.44 acres of upland, 16.59 acres of wetlands and restoration of 14,192 square feet of wetlands on the Property, and restoration of 22 acres of wetlands off-site.

52. The mitigation proposal submitted to DES greatly exceeds the mitigation compensation ratios as required by Wt 803.05, Table Wt 800-1.

53. The wetlands restoration at the Property will be done in 3 phases (see Sec. 19). Phase 1 will be the removal and restoration of 11,092 sq.ft. of fill associated with previously filled wetlands adjacent to Pickering Brook and the creation of a forested wetland buffer.

54. Phase II will be the removal of the old railway culvert and associated fill in Pickering Brook (3,100 sq ft. of fill removal).

55. Phase III will be the construction of a stormwater polishing basin that will create a treatment wetland to provide tertiary treatment of the discharge from the underground storage gallery 1 (51,059 sq.ft. wetland restoration).

56. To compliment this restoration, Packard has proposed additional enhancement with shrub plantings around the proposed development (see Sec 19.1.2)

57. The wetland areas within the on-site preservation are part of a larger wetland complex associated with the Pickering Brook riparian corridor and the Great Bay. The wetlands within the conservation area total approximately 17.88 acres. The development of the project will primarily impact wetlands providing sediment toxicant retention function within the project area and may indirectly impact wildlife habitat. Packard identified those areas of the Property with the highest function for sediment toxicant retention. (Function-Value Synopsis is provided at Sec 19.2.8.)

58. The conservation areas will provide important riparian buffers that will be beneficial to the aquatic systems and wildlife that depend on them for habitat, travel, migration, foraging, nesting and cover (see 19.2.10 for Rational for Conservation Area).

59. In addition to wildlife habitat, the conservation land will maintain protective hydrologic conditions. The vegetated strips will slow water velocity and quantity by interception and absorption, reducing the peak-flows compared with no-buffer systems.

60. A majority of the development will have a minimum of 100-foot buffer placed along the eastern shore of Pickering Brook. Many segments of the brook, generally north of the development, will have greater than a 100-foot buffer.

61. Throughout the brook buffer, substantial native vegetation will be planted on all slopes to improve slope stabilization and a natural stream bank ecology (Volume II of II 17.1.1).

62. The buffer plantings will provide screening and a barrier to undeveloped areas as well as shelter, food and perching sites for local songbirds.

63. Slope plantings will help mitigate the impacts of temperature and lack of shade from developed areas onto the undeveloped areas.

#### Off-Site Mitigation:

64. Packard conducted an extensive search for mitigation parcels in both Greenland and Portsmouth, including eleven properties in Greenland and eight properties in Portsmouth.

65. The off-site mitigation area consists of the rear portions of properties identified on the City of Portsmouth Tax Map 265, Lot 2E



(Griffin), Lot 2C (Apostolic Church of Christ), Lot 2B (Riley), and Lot 2 (Odiorne Conservation easement).

66. Packard has secured permission from the property owners to carry out the restoration as set out in Sec 19.

67. The compensatory mitigation requirement for this project is approximately 10 acres of restoration. The proposed restoration consists of the removal of the invasive species, *Phragmites australis* from approximately 22 acres within the Great Bog.

68. *Phragmites monotypic* stands such as this have robbed large areas of the Great Bog of its plant diversity and wildlife habitat.

69. Removal of the *Phragmites* stand in this area of the Great Bog will increase its plant diversity and wildlife habitat function.

#### Water Quality Issues:

70. Management of storm water, erosion control, construction sequencing, and management to prevent any degradation to water quality is found in Volume II of II, Section 20.

71. The Site Specific Program at DES has authority to review and approve development plans to assure adequate management of stormwater runoff from developed areas. This permit has been conditioned to require that review and approval.

72. The Watershed Management Bureau at DES has authority to review and approve development plans to assure adequate protection of surface waters through a Water Quality Certification process. This permit has been conditioned to require that review and certification.

73. The Subsurface Systems Bureau at DES has authority for the review and approval for on-site wastewater disposal systems (septic systems). This permit has been conditioned on their review and approval.

#### Background:

1. Packard Development, LLC ("Packard") filed an application for wetlands impacts in April of 2003 for the construction of a home improvement center, a retail outlet, a supermarket, and associated parking areas and infrastructure. The application included information prepared by Gove Environmental Services ("GES"), acting as agent for Packard.

2. The land where the project is located is in Greenland, New Hampshire approximately 3 miles southwest of the Portsmouth traffic circle and totals 55.95 acres. The property is located in a commercial / industrial portion of Greenland adjacent to Route 33, more particularly described on Greenland tax maps R21 and R279, as lots 44, 44A, 44B, 44C, 44D, and 6 ("the Property").

3. The Property was formerly the site of a Sylvania light bulb manufacturing facility, that has been abandoned for many years. The manufacturing building and several associated parking areas remain. Prior to this industrial use, the property was heavily graded and ditched for agricultural uses.

4. A public hearing on this application was held on July 23, 2003. Testimony from various parties was received at that hearing and has been considered in this decision.

5. Written comments were received after the hearing from concerned citizens, abutters, the Town of Greenland, the City of Portsmouth and CLF.

6. The comments from the public are summarized as follows:

a) Concerns with water quality impacts to Pickering Brook; recommending use of oil water separators prior to stormwater discharge and questioning the ability of the stormwater treatment area to adequately treat salt, especially during the winter;

b) Degradation of wetlands and Great Bay;

c) Potential for release of TCE;

d) Effectiveness of septic system;

e) Failure to meet need requirement given size and intensity of project;

f) Adequacy of alternatives analysis; claim that it is artificially constrained by not considering smaller scaled development with fewer retail uses;

g) Lack of baseline information on water quality and wildlife to assess wetland impacts and impacts to Pickering Brook;

h) Application fails to properly assess the impacts of the project on functions and values of Pickering Brook and associated wetland/buffer areas and surface waters;

i) Minimization of wetland disturbances related to intersection and access road construction;

j) Parking space size;

k) Potential impacts of flooding to abutting property.

7. On July 23, 2003, DES received a letter from the Portsmouth Conservation Commission, dated April 24, 2003 opposing the original application as presented for the following reasons:

a) The fill of 7 acres of wetlands in this location is "unnecessary and unacceptable";

b) The construction of the project "will result in 25.8 acres of impervious surface";

c) The "new impervious surface will prevent the infiltration of water into the water table and effectively alter the water cycle in this

important area";

d) The "oil, grease and other inputs related to the automobiles parking in these extensive lots will impact the water quality of Pickering Brook and surrounding wetlands";

e) The "change in the water cycle in this area could also impact the transport of the contaminated soil on the site."

f) This "area is in a groundwater management zone for TCE (Trichloroethylene) the alteration of this site could adversely impact the subsurface migration of this chemical".

g) The commission states "to develop a site so intensively in an area between Great Bay and the Great Bog on the banks of Pickering Brook is certain have adverse impacts and either an alternative site should be sought or a less impacting design should be seriously considered?"

h) The commission questions why two versus three stores has not been considered;

i) The commission suggests a reduction in building footprint and parking requirement more appropriate for the scale of the property.

j) The commission suggests the alternative of a parking structure would avoid the need for significant pavement.

8. On July 23, 2003 DES received a letter dated July 21, 2003 from the Portsmouth Conservation Commission ("PCC") regarding the proposed changes to include an on-site septic system. Additionally, the PCC stated other concerns regarding water quality, including: industrial cleaning supplies, TCE contamination and septic issues.

9. On September 23, 2003 DES received a letter dated September 8, 2003 from the Greenland Conservation Commission ("GCC") stating its concerns about the potential of contamination of Pickering Brook from the proposed project. The GCC strongly recommend that UL approved oil water separators be used prior to storm water being discharged from all drains. Additional concerns were raised regarding impact of salt and setback of septic from wetlands.

10. On August 8, 2005 DES received a letter dated July 11, 2005 from the Greenland Conservation Commission regarding the proposed application. In this letter the GCC recommends that the second emergency entrance be relocated and recommends consideration be given to a third option of underground water storage to serve the same purpose as the retention pond proposed by the City of Portsmouth. Additionally, the GCC recommends that any and all mitigation should take place within the limits of the Town of Greenland.

11. The PCC concerns regarding water quality, runoff, TCE contamination, and septic issues have been addressed through the permit application proposal and design and through permit conditions requiring separate environmental approvals from Waste management Division (TCE issues), Alteration of Terrain (impervious surface, runoff and drainage and on-site versus off site drainage calculations), Subsurface Systems Bureau (regarding proposed septic system) and the Watershed Management Bureau (any impacts to Pickering Brook or associated surface waters through Water Quality Certification).

12. The PCC concerns regarding need, alternatives, impact analysis, minimization and avoidance, and functions and values have been separately addressed in the findings contained in this decision as defined by separate corresponding headings.

13. On July 23, 2005, DES Wetlands program received a letter dated July 16, 2003 from William Evans, Bureau Administrator of the Subsurface Systems Bureau regarding his review of the preliminary copy of the Packard development septic system plan. Mr. Evans states "Based on the information as presented we believe that the septic system can be engineered to meet the requirements of the State's governing statutes and regulations." Additionally, Mr. Evans provides that "as an engineered system, a licensed engineer who is also a permitted designer must stamp the plan and final approval will be based upon the the engineering data presented."

14. The original application was revised April 18, 2005 and plan modifications to reduce impacts to wetlands were filed with DES in May of 2005. Many of the public comments have been addressed through plan redesign and DES permit conditions.

15. The application as submitted was prepared after consultation with local, state, and federal agencies and local advisory commissions.

16. The original application requested 5.21 acres of on-site wetland impacts, and 1.79 acres of off-site wetland impacts associated with improvements to Route 33.

17. The on-site wetland impacts have been reduced to 3.99 acres, a reduction of 1.23 acres. The off-site wetland impacts have been increased due to road improvements as required by NHDOT to 2.62 acres, an increase of .83 acres.

18. Under Section 12.1.3, Items 1-5 (hereinafter section and item numbers refer to the report prepared by GES, April 18, 2005) Packard set out the on-site design requirements for the proposed retail development.

19. On August 19, 2005 DES Wetlands Bureau Administrator, Collis Adams and Staff William Thomas inspected the property and proposed off-site mitigation properties and found that the wetlands delineation, functions and values, and impact analysis were

consistent with the information submitted with the application.

Need:

20. Wt 302.04(a)(1) provides that for all major impact projects the applicant shall demonstrate by plan and example that the need for the proposed impacts have been demonstrated.

21. The proposed impacts are to provide for site access, roadway expansion necessary to meet NHDOT requirements, and for lot development and NHDOT permit regarding highway and access road requirements.

22. On June 1, 2005 Packard obtained a NHDOT Driveway and Excavation Permit for the project that sets out the standards and requirements for the highway improvements and site access construction.

23. In letters dated March 23, 2004 and May 15, 2005 to DES, Packard provided documentation supporting that in a two-store scenario redevelopment of this site is not financially practicable as it would result in a negative annual cash flow.

Avoidance and Minimization:

24. The project has been designed to avoid impacts to wetlands to the greatest extent possible for this development.

25. Packard has exceeded the mitigation requirements and has also provided enhanced water quality treatment, additional setback to Pickering Brook, and additional wetlands restoration and upland buffer plantings beyond what is required to compensate the impacts to the aquatic resources.

26. The Town of Greenland requested that the second emergency entrance be relocated from the northwest to the northeast area of the Property so as to avoid wetland fragmentation. DES has conditioned this permit to require the relocation of this emergency entrance to the location suggested by the Town of Greenland.

Alternatives Analysis:

27. Pursuant to Wt 302.03 an applicant is required to submit a statement describing the impact of the proposed project design and provide evidence that demonstrates that potential impacts have been avoided to the maximum extent practicable, and any unavoidable impacts have been minimized. For all permanent impacts that will remain after avoidance and minimization have been addressed the applicant shall submit a compensatory mitigation proposal in accordance with Wt 800.

28. Packard reviewed 15 potential alternate site locations within Greenland, Portsmouth, Newington and Stratham.

29. From the initial pool of sites, 9 sites were selected for intensive analysis using inspections, GIS assessment, infrastructure assessment and conceptual design layouts referencing technical engineering and project design requirements.

30. Packard reviewed potential sites for their ability to meet criteria that would make the site economically feasible. The criteria included: sufficient land area to support 356,935 square feet of buildings and 1,429 parking spaces; topography that would not require excessive earth excavation; local municipal water and sewer or suitable on-site disposal alternatives; local private utility services for gas, electric and telephone; hydrological properties that allow on-site stormwater management without flooding; local highway infrastructure to support the anticipated traffic volumes; proximity to major thoroughfares in order to reduce the miles traveled on local roadways; and local market demand for the proposed type of retail. Six of the 15 sites were discounted because they did not provide sufficient land area for the proposed project. Eight of the nine remaining sites were discarded for one or more of the following factors: greater wetland impacts; stream impacts; potential impacts to State registered species; site not appropriately zoned or unavailable for retail development; site currently developed and not available; limited highway access; poor visibility; and limited availability of utilities.

31. Packard has provided evidence to demonstrate that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction.

Functions and Values:

32. The functions and values in wetland areas 1 through 5 were evaluated by GES and this analysis and the Wetland Function-Value Evaluation Forms are found in Sec. 14 of their 4-18-2005 report.

33. Wetland # 1 (proposed impact 53,674 sq.ft.) is a palustrine scrub-shrub broad-leaved deciduous/emergent persistent wetland located on the eastern portion of the property. Flood flow alteration, sediment and toxicant retention are its primary functions. Wildlife habitat is a lesser function of this wetland.

34. Wetland #2 (proposed impact 11,406 sq.ft.) is a series of four man-made drainage ditches constructed for the purpose of transporting water across the palustrine emergent, scrub shrub wetland on the Property. Its primary function is sediment/toxicant reduction. In an US Army Corps of Engineers (ACOE) memo dated August 19, 2005 they determined that these wetlands "have only very weakly developed wetland characteristics and are of limited function". As such; wetlands 2A, 2B and 2C have been found to be non-jurisdictional by the ACOE.

35. Wetland # 3 (proposed impact 14,352 sq.ft.) is a palustrine/emergent persistent wetland located within the northwestern portion of the Property and has been partially ditched. This appears to be a man-made wetland and its primary function is wildlife habitat. Lesser functions include; flood flow alteration, sediment/shoreline stabilization and nutrient removal.
36. Wetland # 4 (proposed impact 94,408 sq.ft.) is a wet meadow located along the southwestern portion of the Property and the large fallow field at the front of the Property. This wetland has been partially excavated and receives runoff from man-made drainage ditches and the surrounding uplands. The primary function of this wetland is sediment/shoreline stabilization with a lesser wildlife habitat function.
37. Wetland #5 includes Pickering Brook (riverine, lower perennial) and the floodplain associated with Pickering Brook. There are no proposed impacts to Pickering Brook except for restoration of historic impacts to the brook and its floodplain (see mitigation section).
38. The 8 off-site wetland impact areas (2.79 acres of impact proposed) located on either side of Route 33, southwest of the existing site entrance (OS1, OS3, OS5, OS6, OS11a, OS14, OS15 and OS17) were evaluated together due to their similarity in classification as well as their functions and values (see Sec. 14.2.2). These wetlands are man-made roadside ditches associated with the construction and maintenance of Route 33. In their memorandum dated August 19, 2005, the ACOE has determined that wetlands OS1, OS3, OS6, OS11A, OS14, OS15, OS17 are maintained roadway drainage that were built in uplands and therefore are not considered jurisdictional wetlands under the Clean Water Act (CWA). OS5 was built in wetlands and the ACOE has determined that it is jurisdictional under the CWA.
39. Additionally RSA 482-A:3 exemption for the maintenance of man-made drainage ditches was expanded in May 2005 to allow the "cleaning out of main-made drainage facilities to preserve their usefulness, even where wetlands vegetation has become dominant.". By state statute these wetland systems could be maintained in their current location.

#### Impact Analysis:

40. Packard has demonstrated by plan and example that each factor listed in Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.(see Sec. 12)
41. The total land disturbance of the proposed project is approximately 27.57 acres. The project consists of developing 356,935 square feet of retail space, with associated site access, parking, and stormwater treatment.
42. The wetlands on the property have been previously altered by past industrial use and/or past agricultural activities (see Sec. 14.3). During the course of the historic uses, the majority of wetlands on the Property were altered by human activity. This includes the creation of extensive bedding systems to drain wetland areas during farm operations, and extensive grading and filling associated with the industrial development. Additionally, several linear features that now provide very limited wetland functions and values were originally man-made drainage ditches dug in upland soils (see GES letter received 8-26-2005).
43. The current design has reduced on-site wetland impacts by approximately 1.2 acres when compared to the original application proposal.
44. The reduction in wetland impacts was achieved by shifting the overall building envelope northwest, out of the higher functioning wetlands located along the eastern portion of the property and by reducing the grading through the use of retaining walls. Additionally, a significant reduction in wetland impacts was achieved through the redesign and shifting of the site entrance. Additional reductions will result as a relocation of the emergency access road in accordance with the permit conditions.
45. To accommodate existing traffic congestion and increased regional traffic volumes, the project proposes to make off-site improvements to Route 33. The anticipated increases in traffic volume justify the need to widen portions of Route 33 in order to prevent future traffic congestion to a main route that is currently "over-capacity in certain areas" (see Vol. II of II, Sec. 17.2).
46. The primary function provided by the disturbed wetland areas are sediment and toxicant retention as well as some sediment/shoreline stabilization function associated with the wetlands closer to Pickering Brook (see Vol II of II Sec 17.1.1).
47. The proposed storm water management design compensates for the loss of stormwater functions in the wetlands through several water quality treatment features and two underground detention galleries (see Sec 20 Stormwater Management Design).
48. Water quality treatment is provided to offset lost function in the wetlands, and the subsurface detention system mitigates for possible thermal pollution.
49. The underground detention galleries will release water at a comparable quantity and rate as existing conditions, reducing the probability for downstream erosion, while maintaining hydrology to keep the adjacent wetlands viable.
50. Packard has attempted to reduce impacts to wetlands and provide adequate wetlands impact mitigation through the evolution of five design modifications that incorporated requests made NHDES and other Federal and local regulatory agencies during meetings and discussions conducted over the past three years.

#### On-Site Mitigation:

51. Packard has provided mitigation in accordance with Administrative Rules Chapters Wt 300 and Wt 800. This mitigation

specifically provides for preservation of 10.44 acres of upland, 16.59 acres of wetlands and restoration of 14,192 square feet of wetlands on the Property, and restoration of 22 acres of wetlands off-site.

52. The mitigation proposal submitted to DES greatly exceeds the mitigation compensation ratios as required by Wt 803.05, Table Wt 800-1.

53. The wetlands restoration at the Property will be done in 3 phases (see Sec. 19). Phase 1 will be the removal and restoration of 11,092 sq.ft. of fill associated with previously filled wetlands adjacent to Pickering Brook and the creation of a forested wetland buffer.

54. Phase II will be the removal of the old railway culvert and associated fill in Pickering Brook (3,100 sq ft. of fill removal).

55. Phase III will be the construction of a stormwater polishing basin that will create a treatment wetland to provide tertiary treatment of the discharge from the underground storage gallery 1 (51,059 sq.ft. wetland restoration).

56. To compliment this restoration, Packard has proposed additional enhancement with shrub plantings around the proposed development (see Sec 19.1.2)

57. The wetland areas within the on-site preservation are part of a larger wetland complex associated with the Pickering Brook riparian corridor and the Great Bay. The wetlands within the conservation area total approximately 17.88 acres. The development of the project will primarily impact wetlands providing sediment toxicant retention function within the project area and may indirectly impact wildlife habitat. Packard identified those areas of the Property with the highest function for sediment toxicant retention. (Function-Value Synopsis is provided at Sec 19.2.8.)

58. The conservation areas will provide important riparian buffers that will be beneficial to the aquatic systems and wildlife that depend on them for habitat, travel, migration, foraging, nesting and cover (see 19.2.10 for Rational for Conservation Area).

59. In addition to wildlife habitat, the conservation land will maintain protective hydrologic conditions. The vegetated strips will slow water velocity and quantity by interception and absorption, reducing the peak-flows compared with no-buffer systems.

60. A majority of the development will have a minimum of 100-foot buffer placed along the eastern shore of Pickering Brook. Many segments of the brook, generally north of the development, will have greater than a 100-foot buffer.

61. Throughout the brook buffer, substantial native vegetation will be planted on all slopes to improve slope stabilization and a natural stream bank ecology (Volume II of II 17.1.1).

62. The buffer plantings will provide screening and a barrier to undeveloped areas as well as shelter, food and perching sites for local songbirds.

63. Slope plantings will help mitigate the impacts of temperature and lack of shade from developed areas onto the undeveloped areas.

#### Off-Site Mitigation:

64. Packard conducted an extensive search for mitigation parcels in both Greenland and Portsmouth, including eleven properties in Greenland and eight properties in Portsmouth.

65. The off-site mitigation area consists of the rear portions of properties identified on the City of Portsmouth Tax Map 265, Lot 2E (Griffin), Lot 2C (Apostolic Church of Christ), Lot 2B (Riley), and Lot 2 (Odiorne Conservation easement).

66. Packard has secured permission from the property owners to carry out the restoration as set out in Sec 19.

67. The compensatory mitigation requirement for this project is approximately 10 acres of restoration. The proposed restoration consists of the removal of the invasive species, *Phragmites australis* from approximately 22 acres within the Great Bog.

68. *Phragmites monotypic* stands such as this have robbed large areas of the Great Bog of its plant diversity and wildlife habitat.

69. Removal of the *Phragmites* stand in this area of the Great Bog will increase its plant diversity and wildlife habitat function.

#### Water Quality Issues:

70. Management of storm water, erosion control, construction sequencing, and management to prevent any degradation to water quality is found in Volume II of II, Section 20.

71. The Site Specific Program at DES has authority to review and approve development plans to assure adequate management of stormwater runoff from developed areas. This permit has been conditioned to require that review and approval.

72. The Watershed Management Bureau at DES has authority to review and approve development plans to assure adequate protection of surface waters through a Water Quality Certification process. This permit has been conditioned to require that review and certification.

73. The Subsurface Systems Bureau at DES has authority for the review and approval for on-site wastewater disposal systems (septic systems). This permit has been conditioned on their review and approval.

#### ADDITIONAL FINDINGS:

74. The applicant's agent has submitted an engineering analysis, dated October 5, 2005, demonstrating that construction of the emergency access road in the originally proposed northwest location on the property is the only feasible alternative. Additionally, this location will provide the greatest level of safety when considering ease of access and emergency vehicle response time.

75. The applicant has submitted a letter from the Greenland Police Department, dated October 6, 2005, suggesting that the location for the emergency access road as requested by the GCC is not desirable for safety reasons.

**2004-01824                      SULLIVAN JR, CHARLES**  
**GILFORD   Lake Winnepesaukee**

Requested Action:  
PROPOSED

Agent for the applicant requests reconsideration of the request for docking structures on the frontage that do comply with the Wetlands Bureau regulations and statute.

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Conservation Commission/Staff Comments:  
Con. Com. had no objection to project

DENY RECONSIDERATION:  
DESCRIPTION

Reconsider and deny the permit to: Construct a 6 ft by 30 ft dock, remove a 4 ft by 24 ft seasonal dock, reset rocks on breakwater.

With Findings:  
Grounds for Reconsideration

1. The Applicant states they did not receive satisfactory explanation of the requirements of Rule Wt 402.22 including the requirement that 325 ft of permanent surface water impacts be removed from the proposal.
2. The Applicant states there is no administrative rule addressing allowable impacts.
3. The Applicant notes that the project was denied 37 days after the last correspondence was received from the applicant.

Standards for Approval

4. In accordance with RSA 482-A:3,XIV (c), "where the department requests additional information pursuant to subparagraph (b), the department shall, within 30 days of the departments receipt of that information: (1) Approve or deny the application,..."
5. In accordance with RSA 482-A:10, Appeals, the "department shall receive and consider any new and additional evidence presented."
6. In accordance with Rule Wt 304.10, Shoreline Structures, shoreline structures shall meet the criteria of Chapter Wt 400.
7. In accordance with Rule Wt 402.22, Modification of Existing Structures, "the department shall not approve any change in the size, location or configuration of existing structures unless the applicant demonstrates that and the department finds the modification to be less of an environmental impact or provides for less boat slips and less construction surface area over public submerged lands than the current configuration."
8. In accordance with a working policy developed in June 1998, the department will waive the requirements of Rule Wt 402.22, with findings, if the Applicant provides documentation that the construction surface area of, and number of slips provided by, the modified, non-conforming structures does not exceed that which would result from the construction of new, functionally equivalent, conforming structures on the frontage.

Findings of Fact

9. The Bureau received an application on August 5, 2004 to construct a 6 ft by 30 ft dock over an existing jetty, remove an illegal 4

ft by 24 ft seasonal dock, reset rocks on an existing breakwater.

10. The existing structures on the frontage, including but not limited to the jetty and an area of "made land" exceed the criteria of Chapter Wt 400 and therefore are considered to be non-conforming.

11. The Bureau sent a Request for More Information on September 17, 2004 stating the need to address the requirements of Rule Wt 402.22. This letter requested the removal of 325 sq ft of construction surface area to account for the additional construction surface area requested.

12. The Bureau received a letter on December 15, 2004, from the agent for the applicant requesting explanation of the Request for More information letter.

13. The Bureau sent a Request for More Information letter dated December 27, 2004, explaining Rule Wt 402.22. This letter also requested information on possible future dredge of the proposed slips to determine if the proposal to spread the requested slips through shallow areas across the frontage would be less impacting than consolidating the slips into a smaller portion of the frontage.

14. The Bureau extended the deadline for response to the Request for More Information to September 1, 2005.

15. On May 25, 2005, the Applicant met with Wetlands Bureau staff to discuss the interpretation of Rule Wt 402.22.

16. On June 13, 2005, the Bureau received a letter from the applicant which further questioned the Bureau's interpretation and application of Rule Wt 402.22 and which compared the sq ft of structures existing on the subject frontage to the structures permitted on the frontage of another property. The method of comparison used was inconsistent and therefore unreliable as evidence.

17. The Bureau sent a letter dated August 2, 2005, stating the agent for the applicant had 30 days remaining to submit the requested information in Request for More Information letter dated December 27, 2004.

18. The Bureau received a second copy of the letter dated June 13, 2005, on August 10, 2005 from the Applicant. No additional information was submitted.

19. The application was denied in accordance with RSA 482-A:3, XIV(b), on September 16, 2005, because the agent for the applicant failed submit the additional information requested.

#### Rulings in Support of the Decision

20. The Applicant's assertion that the Bureau does not have rules addressing allowable impacts is incorrect as the Administrative Rules found in Chapter 400 outline the impacts allowed for the construction of docking facilities.

21. The impacts allowed under Chapter Wt 400 are based on the characteristics of the frontage on which they are requested, therefore, the size location and configuration of docking facilities on other sites, which may be subject to other natural conditions, or may have been installed under a previously existing legal circumstance are not justification for the construction of excessive structures on this site.

22. The Bureau has attempted to explain the requirements of Rule Wt 402.22 to the Applicant both in writing, and during a subsequent meeting.

23. RSA 482-A:3, XIV (c) requires the Bureau to take action on an application within 30 days of receipt of the information requested. The correspondence submitted to the Bureau on August 10, 2005 did not contain the information requested by the Bureau and therefore RSA 482-A:3, XIV (c) does not apply.

24. The agent for the applicant did not present any new information to the file for the reconsideration, therefore the Bureau re-affirms all of the original findings in support of denial issued September 16, 2005.

#### **2005-01815                      SEACOAST NEWSPAPERS STRATHAM   Unnamed Wetland**

##### Requested Action:

Dredge and fill a total of 30,875 sq. ft. of previously impacted palustrine forested/ scrub-shrub wetlands and including filling an existing 14,400 sq. ft. man-made fire pond (to be replaced with a 30,000 gallon fire suppression cistern) for commercial lot development for a 14,174 sq. ft. retail building with appurtenant parking, drainage structures and landscaping.

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##### Conservation Commission/Staff Comments:

No report received from the Stratham Conservation Commission.

Inspection Date: 09/15/2005 by Frank D Richardson

**APPROVE PERMIT:**

Dredge and fill a total of 30,875 sq. ft. of previously impacted palustrine forested/ scrub-shrub wetlands and including filling an existing 14,400 sq. ft. man-made fire pond (to be replaced with a 30,000 gallon fire suppression cistern) for commercial lot development for a 14,174 sq. ft. retail building with appurtenant parking, drainage structures and landscaping.

**With Conditions:**

1. All work shall be in accordance with plans by Jones & Beach Engineers, Inc. dated 1/3/05, as received by the Department on August 05, 2005.
2. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
3. This permit is contingent on approval by the DES Subsurface Systems Bureau.
4. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
7. DES wetlands Bureau Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.

**Land Resources Preservation:**

1. This permit is contingent upon the execution of a conservation easement on 6.0 acres as described in narrative depicted on plans and aerial photo received August 05, 2005.
2. The conservation easements to be placed on the preservation areas shall be written to run with the land, and both existing and future property owners shall be subject to this easement.
3. The plan noting the conservation easement with a copy of the final easement language shall be recorded with the Registry of Deeds Office for each appropriate lot. A copy of the recording from the Rockingham County Registry of Deeds Office shall be submitted to the DES Wetlands Bureau prior to the start of construction.
4. The applicant shall prepare a report summarizing existing conditions within the conservation area. Said report shall contain photographic documentation of the easement area, and shall be submitted to the DES and the grantee prior to construction to serve as a baseline for future monitoring of the easement area.
5. The conservation easement area shall be surveyed by a licensed surveyor, and marked by monuments prior to construction.
6. The DES Wetlands Bureau shall be notified of the placement of the easement monuments to coordinate on-site review of their location prior to construction.
7. There shall be no removal of the existing vegetative undergrowth within the easement area and the placement of fill, construction of structures, and storage of vehicles or hazardous materials is prohibited.
8. Activities in contravention of the conservation easement shall be construed as a violation of RSA 482-A, and those activities shall be subject to the enforcement powers of the Department of Environmental Services (including remediation and fines).

**With Findings:**

1. This is a major impact project per Administrative Rule Wt 303.02(c), alteration of nontidal wetlands, nontidal surface waters and banks adjacent to nontidal surface waters in excess of 20,000 square feet in the aggregate.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
5. DES Staff conducted a field inspection of the proposed project on September 15, 2005. Field inspection determined this is a previously impacted highly urbanized site location with relatively low value wetlands providing minimal wetland functions and values. The impacts are compensated for by the tract of land bordering the Squamscott River to be held in a conservation easement in perpetuity.
6. The public hearing is waived with the finding that the project impacts will not significantly impair the resources of this palustrine wetland ecosystem.



**2005-02134                      PORTSMOUTH, CITY OF**  
**PORTSMOUTH    Piscataqua River**

Requested Action:

Impact a total of 495 linear feet of the shoreline of the Piscataqua River, including; impact 455 linear feet of shoreline at six locations to repair and reconstruct the existing mortared stone masonry quaywalls and for replacement of riprap at Prescott Park; impact 40 linear feet of shoreline at one location for replacement of riprap at Four Tree Island.

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Conservation Commission/Staff Comments:

Conservation Commission signed the Expedited Application.

Inspection Date: 07/22/2005 by Eben M Lewis

APPROVE PERMIT:

Impact a total of 495 linear feet of the shoreline of the Piscataqua River, including; impact 455 linear feet of shoreline at six locations to repair and reconstruct the existing mortared stone masonry quaywalls and for replacement of riprap at Prescott Park; impact 40 linear feet of shoreline at one location for replacement of riprap at Four Tree Island.

With Conditions:

1. All work shall be in accordance with plans by Appledore Marine Engineering, Inc. dated August 2005, as received by the Department on September 12, 2005.
2. All work shall be done during low tide and in the dry.
3. Construction equipment shall not be located within surface waters.
4. Any further alteration of wetlands on this property will require a new application and further permitting by Department of Environmental Services ("DES") Wetlands Bureau.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain in until the area is stabilized.
6. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
7. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing, by mulching with tack or netting and pinning on slopes steeper than 3:1.

With Findings:

1. The applicant has adequately demonstrated that the shoreline is in need of repair of localized areas of failed riprap shore protection and masonry quaywalls and has thereby demonstrated need as required by Administrative Rule Wt 302.01(a).
2. The proposed project maintains the same general footprint as existing.
3. This application was field inspected by DES personnel on July 22, 2005, which finds the repair and reconstruction as proposed represents minimal impact to the tidal resource at these locations.
4. Based on finding #1, #2, and #3, this project is deemed minimum impact per Administrative Rule Wt 303.04(o).

**MINOR IMPACT PROJECT**

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**2005-00618                      FRIZZELL, ROBERT**  
**MILTON    Unnamed Wetland**

Requested Action:

Dredge and fill 9,965 square feet of palustrine forested wetlands to provide access for commercial development. Preserve 4.36

acres comprised of 0.54 acres of wetlands and 3.82 acres of uplands as compensatory mitigation for project related impacts to be conveyed to the Town of Milton.

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Conservation Commission/Staff Comments:

No comments submitted from the conservation commission.

APPROVE PERMIT:

Dredge and fill 9,965 square feet of palustrine forested wetlands to provide access for commercial development. Preserve 4.36 acres comprised of 0.54 acres of wetlands and 3.82 acres of uplands as compensatory mitigation for project related impacts to be conveyed to the Town of Milton.

With Conditions:

1. All work shall be in accordance with plans by Crown Point Survey & Engineering, LLC, sheets 1, 2 and 4 revised September 15, 2005 and sheets 3, 5 and 6 dated March 28, 2005, as received by the Department on September 21, 2005.
2. This permit is contingent on approval by the DES Site Specific Program.
3. This permit is contingent on approval by the DES Subsurface Systems Bureau.
4. Work shall be done during low flow.
5. Appropriate siltation and erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
7. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

Wetland preservation:

8. This permit is contingent upon the execution of a conservation easement on 4.36 acres as depicted on plan sheet 1 received September 21, 2005, to be conveyed to the Town of Milton.
9. The conservation easement to be placed on the preservation area shall be written to run with the land, and both existing and future property owners shall be subject to this easement.
10. The plan noting the conservation easement with a copy of the final easement language shall be recorded with the Registry of Deeds Office for each appropriate lot. A copy of the recording from the County Registry of Deeds Office shall be submitted to the DES Wetlands Bureau prior to the start of construction.
11. The applicant shall prepare a report summarizing existing conditions within the conservation area. Said report shall contain photographic documentation of the easement area, and shall be submitted to the DES and the grantee prior to construction to serve as a baseline for future monitoring of the easement area.
12. The conservation easement area shall be surveyed by a licensed surveyor, and marked by monuments [stakes] prior to construction.
13. The Wetlands Bureau shall be notified of the placement of the easement monuments to coordinate on-site review of their location prior to construction.
14. There shall be no removal of the existing vegetative undergrowth within the easement area and the placement of fill, construction of structures, and storage of vehicles or hazardous materials is prohibited.
15. Activities in contravention of the conservation easement shall be construed as a violation of RSA 482-A and those activities shall be subject to the enforcement powers of the Department of Environmental Services (including remediation and fines).

With Findings:

1. This is a minor impact project per Administrative Rule Wt 303.03(h), alteration of less than 20,000 sq ft of nontidal jurisdictional wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application

Evaluation, has been considered in the design of the project.

5. NHI identified a species of concern within the projects proximity though determined the work will have no direct impact.
6. The NHF&G Department requested a vernal pool survey and review for the presence of a species of concern protected under the NH Endangered Species Conservation Act (RSA 212-A).
7. The project impacts are within the proximity of jurisdictional areas that support state or federally listed endangered or threatened species or its habitat or reproduction areas and therefore require compensatory mitigation.
8. The applicant has provided a 100 foot no disturbance buffer along the edge of Lyman Brook as compensatory mitigation.
9. The minimal requirement for compensatory mitigation requires 2.29 acres of upland preservation.
10. The compensatory mitigation area is 4.36 acres comprised of 3.82 acres of uplands and 0.54 acres of wetlands.
11. The compensatory mitigation exceeds the minimal requirements by 2.07 acres.
12. The proposed compensatory mitigation parcel is to be conveyed to the Town of Milton.
13. The public hearing is waived with the finding that the project impacts will not significantly impair the resources of this wetland ecosystem.

**2005-00769                      AMERICAN K9 COUNTRY**  
**AMHERST   Unnamed Wetland**

**Requested Action:**

Fill a total of 4,300 sq. ft. of wetland for the construction of a driveway and installation of a 30 inch CPP culvert and a 33 inch arch culvert to access buildable upland for the construction of a house.

\*\*\*\*\*

**APPROVE PERMIT:**

Fill a total of 4,300 sq. ft. of wetland for the construction of a driveway and installation of a 30 inch CPP culvert and a 33 inch arch culvert to access buildable upland for the construction of a house.

**With Conditions:**

1. All work shall be in accordance with plans by Sandford Surveying and Engineering, Inc. dated June 3, 2005 with revisions dated July 21, 2005, as received by the Department on August 31, 2005.
2. Work shall be done during no flow conditions of the intermittent stream.
3. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
4. Any further alteration of wetlands on this property will require a new application and further permitting by Department of Environmental Services ("DES") Wetlands Bureau.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain in until the area is stabilized.
6. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
7. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing, by mulching with tack or netting and pinning on slopes steeper than 3:1.
8. Wetland boundaries at or near the impact areas are to be clearly marked prior to the start of clearing or construction.

**With Findings:**

1. This is a minor impact project per Administrative Rule Wt 303.03(h), alteration of less than 20,000 sq. ft. of wetlands.
2. The applicant has adequately demonstrated that the proposal must cross wetlands at some locations on this property to access buildable uplands and has thereby demonstrated need as required by Wt 302.04(a)(1).
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

**2005-01058                      BILLIS, CONSTANTINE**  
**WOLFEBORO   Unnamed Wetland**

Requested Action:

Impact a total of 3017 square feet further described as follows: Permanently impact 2705 square feet of palustrine forested wetland including installation of two 30-foot x 12-inch culverts for access to a proposed single family residence and temporarily impact 312 square feet for erosion control installation.

\*\*\*\*\*

Conservation Commission/Staff Comments:

See findings

APPROVE PERMIT:

Impact a total of 3017 square feet further described as follows: Permanently impact 2705 square feet of palustrine forested wetland including installation of two 30-foot x 12-inch culverts for access to a proposed single family residence and temporarily impact 312 square feet for erosion control installation.

With Conditions:

1. All work shall be in accordance with plans by Folsom Design Group dated September 20, 2005, as received by the Department on September 23, 2005.
2. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
3. Work shall be done during periods of non-flow.
4. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
5. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Proper headwalls shall be constructed within seven days of culvert installation.
7. Culvert outlets shall be protected in accordance with the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
8. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

With Findings:

1. This is a minor impact project per Administrative Rule Wt 303.03(h); Projects involving less than 20,000 square feet of alteration in the aggregate in nontidal wetlands, nontidal surface waters, or banks adjacent to nontidal surface waters which exceed the criteria of Wt 303.04(f).
2. The wetland is across the entire roadway frontage of this lot.
3. This lot is an existing lot of record.
4. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
5. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
6. The applicant has used the upland islands to the greatest extent possible.
7. The applicant has requested and has been denied permission to move the driveway within 20 feet of the property line.
8. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
9. The Wolfeboro Conservation Commission has no objections to the proposed application, per their letter dated June 8, 2005.

**2005-01086**

**PILAT, ROBERT**

**HAMPTON Tidal Buffer Zone**

Requested Action:

Excavate, regrade and/or otherwise alter terrain on 1,975 sq. ft. of previously disturbed upland tidal buffer zone to abate drainage problems on this residential house lot.

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Conservation Commission/Staff Comments:

The Hampton Conservation Commission initially intervened on the application then filed a follow-up report stating no opposition to the project w/ recommendations which are incorporated into the permit conditions.

APPROVE PERMIT:

Excavate, regrade and/or otherwise alter terrain on 1,975 sq. ft. of previously disturbed upland tidal buffer zone to abate drainage problems on this residential house lot.

With Conditions:

1. All work shall be in accordance with plans by NH Soil Consultants, Inc. dated 5/05, as received by the Department on May 20, 2005.
2. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).
3. There shall be no further alteration of areas within NH DES wetlands jurisdiction for lot development, driveways, culverts, or other construction activities.
4. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Property boundary markers will not be obscured by the placement of fill.
7. No fill shall be placed around the trunks of existing trees within the project area.
8. DES Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.

With Findings:

1. This is a minor impact project per Administrative Rule Wt 303.03(b).
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

**2005-01098**                      **VIETAS, JIM**  
**HAMPTON**   **Atlantic Ocean**

**2005-01562**                      **PRESTON, ROBERT**  
**SEABROOK**   **Tidal Buffer Zone**

Requested Action:

Reconstruct and rehabilitate an existing 50 ft. x 24 ft. building with an attached 10 ft. x 24 ft. deck and stairway in the previously disturbed tidal buffer zone in the same location and footprint.

\*\*\*\*\*

Conservation Commission/Staff Comments:

The Seabrook Conservation Commission recommends approval of the project (pers. comm. Sue Foote, Chair).

Inspection Date: 06/20/2005 by Frank D Richardson

APPROVE PERMIT:

Reconstruct and rehabilitate an existing 50 ft. x 24 ft. building with an attached 10 ft. x 24 ft. deck and stairway in the previously disturbed tidal buffer zone in the same location and footprint.

With Conditions:

1. All work shall be in accordance with plans by Summit Geotechnical Consultants, Inc. and applicant dated June, 2005, as received by the Department on July 11, 2005.
2. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
3. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
5. DES Wetlands Bureau Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.

With Findings:

1. This is a minor impact project per Administrative Rule Wt 303.03(b), projects that involve work within 50 feet of a salt marsh that do not meet the criteria of Wt 303.02.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. DES Staff conducted a field inspection of the proposed project on June 20, 2005. Field inspection determined all work is confined to the existing footprint of the building which is to be reconstructed/ rehabilitated and will have no impact on the adjacent tidal wetlands.

**2005-01607                      BENOIT, DAVID**  
**SEABROOK   Unnamed Wetland**

Requested Action:

Dredge and fill a total of 9,110 sq. ft. of palustrine forested/scrub-shrub wetlands to construct a roadway and driveway with culvert crossings to access a commercial/industrial building site.

\*\*\*\*\*

Conservation Commission/Staff Comments:

The Seabrook Conservation Commission is not opposed to this project (pers. comm. w/ Sue Foote, Chair).

Inspection Date: 05/12/2005 by Frank D Richardson

APPROVE PERMIT:

Dredge and fill a total of 9,110 sq. ft. of palustrine forested/scrub-shrub wetlands to construct a roadway and driveway with culvert crossings to access a commercial/industrial building site.

With Conditions:

1. All work shall be in accordance with plans by Millennium Engineering, Inc. dated June 01, 2005, as received by the Department on July 11, 2005.
2. This permit is contingent on approval by the DES Site Specific Program.
3. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for other construction activities.
4. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
7. Proper headwalls shall be constructed within seven days of culvert installation.
8. Culvert outlets shall be properly rip rapped.
9. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices

for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

10. Work shall be done during low flow.

11. DES Wetlands Bureau Southeast Region staff shall be notified in writing prior to commencement of work and upon its completion.

With Findings:

1. This is a minor impact project per Administrative Rule Wt 303.03(h), alteration of less than 20,000 square feet in aggregate in nontidal wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. DES Staff conducted a field inspection of the proposed project on May 12, 2005. Field inspection determined the impacts are reasonable to develop this site in a commercial/industrial zone adjacent to previously developed parcels. Much higher quality wetlands are found nearby which will remain undisturbed.

## MINIMUM IMPACT PROJECT

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**2001-02304                      MAIN, TODD**  
**WAKEFIELD   Belleau Lake**

Requested Action:

Remove approximately 1,564 square feet of unstable sand along 46 feet of shoreline on Belleau Lake in Wakefield. Remove approximately 400 square feet of eroded sand from the lakebed. Install an 840 square foot perched beach and a set of 4 foot wide stairs along 21 linear feet of shoreline. Vegetatively stabilize 13 linear feet of shoreline.

\*\*\*\*\*

Conservation Commission/Staff Comments:

See Enf #2001-2304.

Permit includes restorative actions.

APPROVE PERMIT:

Remove approximately 1,564 square feet of unstable sand along 46 feet of shoreline on Belleau Lake in Wakefield. Remove approximately 400 square feet of eroded sand from the lakebed. Install an 840 square foot perched beach and a set of 4 foot wide stairs along 21 linear feet of shoreline. Vegetatively stabilize 13 linear feet of shoreline.

With Conditions:

1. All work shall be in accordance with plans by Seekamp Environmental Consulting, INC. dated October 5, 2005, as received by the Department on October 7, 2005.
2. Work should be carried out during drawdown.
3. To comply with Administrative Order No. WD 05-009, the schedule for the installation of the perched beach and shoreline and lakebed restoration shall coincide and be completed by November 30, 2005.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized.
5. Machinery shall not be used in the lakebed.
6. Dredged or excavated material shall be placed outside of the DES Wetlands Bureau jurisdiction.
7. Stone placed along the beach front for the purpose of retaining sand shall be placed above and/or landward of those rocks currently located along the normal high water line or full pond elevation. Those rocks existing at the normal high water line shall remain otherwise undisturbed such that the natural shoreline remains identifiable.
8. The steps installed for access to the water shall be located completely landward of the normal high water line or full pond

elevation.

9. No more than 10 cu. yds. of sand may be used and all sand shall be located above the normal high water line or full pond elevation.

10. This permit shall be used only once, and does not allow for annual beach replenishment.

11. The permittee shall provide appropriate diversion of surface water runoff to prevent erosion of beach area.

12. A post-construction report documenting the status of the completed project with photographs shall be submitted to the Wetlands Bureau within 30 days of the completion of construction, but no later than December 31, 2005.

13. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

**With Findings:**

1. This is a minimum impact project per Administrative Rule Wt 303.04(d), construction of a perched beach, Wt 303.04 (m), projects disturbing less than 50 linear feet along the shoreline of a lake or its banks, and 303.04(o), removal of approximately 400 square feet of sand from the lakebed in the dry.

2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.

3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.

4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

**2004-02157                      MAYNARD, DAVID**  
**BARNSTEAD   Locke Lake**

**Requested Action:**

Construct a 400 sqft perched beach and install a 4 ft by 24 ft seasonal dock, restore the shoreline by re-vegetating the frontage on Locke Lake, Barnstead.

\*\*\*\*\*

**Conservation Commission/Staff Comments:**

No Con Com comments as of July 13, 2005.

**APPROVE PERMIT:**

Construct a 400 sqft perched beach and install a 4 ft by 24 ft seasonal dock, restore the shoreline by re-vegetating the frontage on Locke Lake, Barnstead.

**With Conditions:**

1. All work shall be in accordance with plans by Randy Orvis dated April 14, 2003, revision date September 15, 2005, as received by the Department on September 20, 2005.

2. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to installation.

3. This permit shall not preclude the Department of Environmental Services (DES) from taking any enforcement action or revocation action if the DES later determines that these "existing structures" were not previously permitted or grandfathered.

4. This shall be the only structure on this water frontage and all portions of the dock shall be at least 20 ft. from abutting property lines or the imaginary extension of those lines into the water.

5. Seasonal pier shall be removed from the lake for the non-boating season.

6. No portion of the pier shall extend more than 20 feet from the shoreline at full lake elevation.

7. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.

8. Area shall be regraded to original contours following completion of work.

9. Dredged or excavated material shall be placed outside of the DES Wetlands Bureau jurisdiction.

10. Stone placed along the beach front for the purpose of retaining sand shall be placed above and/or landward of those rocks currently located along the normal high water line. Those rocks existing at the normal high water line shall remain otherwise undisturbed such that the natural shoreline remains identifiable.

11. The steps installed for access to the water shall be located completely landward of the normal high water line.



12. No more than 10 cu. yds. of sand may be used and all sand shall be located above the normal high water line.
13. This permit shall be used only once, and does not allow for annual beach replenishment.
14. The permittee shall provide appropriate diversion of surface water runoff to prevent erosion of beach area.
15. Restoration of trees, shrubs and ground covers shall be in accordance with plans by Randy Orvis dated April 14, 2003, revision date September 15, 2005, as received by the Department on September 20, 2005 and shall begin at a distance no greater than 5 feet landward from the beach area.
16. Photos shall be submitted to the Bureau within one year of the date of issuance of the permit showing the completion of the plantings and beach construction.
17. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(d), construction of a beach.
2. This property has been the subject of enforcement action for violations to the woodland buffer under RSA 483-B.
3. The applicant has provided a restoration plan to revegetate the frontage immediately landward of the beach area to reestablish native vegetation.

**2004-02890                      MOULTON, TREFF**  
**PLAINFIELD   Unnamed Wetland**

Conservation Commission/Staff Comments:

No comments submitted from the conservation commission.

After the fact crossing includes a proposed subdivision.

With Findings:

1. A request for additional information dated December 21, 2004, addressed to the applicant or agent of record, clearly identified changes made to RSA 482-A:3 in 2003, requiring the applicant to submit additional information to DES within 120 days of the request.
2. Pursuant to RSA 482-A, XIV(b), if the requested additional information is not received by DES within 120 days of the request, DES shall deny the application.
3. DES did not receive the requested additional information within the 120 days and therefore the application has been denied.

**2005-01678                      WAKEFIELD, TOWN OF**  
**WAKEFIELD   Unnamed Stream**

**2005-01769                      MALENKA, DAVID & ANN**  
**HANOVER   Unnamed Pond**

Requested Action:

Dredge 11450 square feet of an existing man-made sediment basin to construct pond.

\*\*\*\*\*

APPROVE PERMIT:

Dredge 11450 square feet of an existing man-made sediment basin to construct pond.

With Conditions:

1. All work shall be in accordance with plans by Pathways Consulting, LLC dated September 2004, December 2004 and July 2005, as received by the Department on August 1, 2005.
2. All work shall be done in the dry or under draw down conditions.

3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
4. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
5. Dewatering of dredge materials, if required, shall be conducted in a manner so as to prevent turbidity.
6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(k), maintenance dredging when necessary to provide continued usefulness of man-made ponds.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

**2005-01826                      TENNESSEE GAS PIPELINE CO.**  
**ALLENSTOWN   Suncook River**

Requested Action:

Dredge and fill approximately 50 square feet of bank along 10 linear feet of the Suncook River for maintenance of an existing remote ground bed.

\*\*\*\*\*

Conservation Commission/Staff Comments:

See findings.

APPROVE PERMIT:

Dredge and fill approximately 50 square feet of bank along 10 linear feet of the Suncook River for maintenance of an existing remote ground bed.

With Conditions:

1. All work shall be in accordance with plans by Tennessee Gas Pipeline, as received by the Department on September 20, 2005.
2. No stumps shall be removed within 50 feet of the reference line per RSA 483-B (see attached fact sheet).
3. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
4. Work shall be conducted during low water conditions.
5. The applicant shall notify in writing the DES Wetlands Bureau, the Conservation Commission of their intention to commence construction no less than five (5) business days prior to the commencement of construction.
6. The Permittee shall monitor the weather and will not commence work within flowing water, including the installation of cofferdams, when rain is in the forecast.
7. Work shall be conducted in a manner so as to minimize turbidity and sedimentation.
8. Banks shall be restored to their original grades and to a stable condition within three days of completion of construction.
9. Areas from which vegetation has been cleared to gain access to the site shall be replanted with like native species.
10. The applicant shall notify DES Wetlands Bureau in writing within twenty-four (24) hours of an erosion event resulting in sediment entering a wetland or surface water.
11. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
12. A post-construction report documenting the status of the restored streambed and banks shall be submitted to the Wetlands Bureau within 60 days of the completion of construction.

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(o); Projects deemed minimum impact by the department based on the degree of environmental impact.
2. The applicant is proposing to maintain an existing remote ground bed which protects the existing pipeline from corrosion under the bed of the river.
3. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
4. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
5. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
6. The conservation commission signed the original Permit by Notification form with conditions. DEE has included these conditions in the permit approval.

**2005-01931                      HAMEL CONSTRUCTION CO INC**  
**BERLIN   Unnamed Wetland**

Requested Action:

Dredge and fill 1965 square feet of forested wetlands to install a 24-inch x 60-foot culvert for road access to a 4 lot subdivision.

\*\*\*\*\*

Conservation Commission/Staff Comments:

The City of Berlin does not have a Conservation Commission.

APPROVE PERMIT:

Dredge and fill 1965 square feet of forested wetlands to install a 24-inch x 60-foot culvert for road access to a 4 lot subdivision.

With Conditions:

1. All work shall be in accordance with plans by York Land Services, LLC dated May 18, 2005, as received by the Department on October 4, 2005, and narrative by Lobdell Associates as received August 16, 2005.
2. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
3. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition # 2 of this approval.
4. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau.
5. Work shall be done during low flow.
6. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
8. Proper headwalls shall be constructed within seven days of culvert installation.
9. Culverts shall be laid at original grade.
10. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
11. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
12. Extreme precautions shall be taken within riparian areas to limit unnecessary removal of vegetation during access road construction and areas cleared of vegetation to be revegetated within three days of the completion of this project.
11. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
12. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
13. Faulty equipment shall be repaired prior to entering jurisdictional areas.
14. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each

operator shall be trained in its use.

15. All refueling of equipment shall occur outside of surface waters or wetlands during construction.

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(f), alteration of less than 3,000 square feet of swamps.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

## FORESTRY NOTIFICATION

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**2005-01709                      RIES, DAVID**  
**WARNER   Unnamed Stream**

COMPLETE NOTIFICATION:  
Warner Tax Map 6, Lot# 6 & 11

**2005-02404                      WARNER, TOWN OF**  
**WARNER   Unnamed Stream**

COMPLETE NOTIFICATION:  
Warner Tax Map 9, Lot# 9

**2005-02462                      TAYLOR, ARTHUR**  
**ROCHESTER   Unnamed Stream**

COMPLETE NOTIFICATION:  
Rochester Tax Map 259, Lot# 89

**2005-02463                      BORDEN, BRUCE**  
**KEENE   Unnamed Stream**

COMPLETE NOTIFICATION:  
Keene Tax Map 919, Lot# 9-23

**2005-02464                      SANDERSON, NATHAN**  
**FRANCESTOWN   Unnamed Stream**

COMPLETE NOTIFICATION:  
Francetown Tax Map 6, Lot# 40

**2005-02465                      COOLIDGE, NATHANIEL**  
**SANDWICH   Unnamed Stream**

COMPLETE NOTIFICATION:

Sandwich Tax Map R19 & R20, Lot# 58E,F,G & 51,51A

**2005-02466 ALDEN, FRANKLIN & LYNNE**  
**NEW DURHAM Unnamed Stream**

COMPLETE NOTIFICATION:

New Durham Tax Map 4, Lot# 1-B

**2005-02467 SPRAGUE BROOK INC**  
**RICHMOND Unnamed Stream**

COMPLETE NOTIFICATION:

Richmond Tax Map D3 & D4, Lot# 7 & 2

**2005-02468 H & H INVESTMENTS LLC, DONALD HARDWICK**  
**RICHMOND Unnamed Stream**

COMPLETE NOTIFICATION:

Richmond Tax map 407, Lot# 7 & 8

**EXPEDITED MINIMUM**

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**2002-00715 NEVINS, CHRISTOPHER & EILEEN**  
**NEW DURHAM Merrymeeting Lake**

Requested Action:

Approve name change to: Neal & Darlene Ouellette, 124 Kensington Rd., Portsmouth NH 03801 per request received 10/18/2005.

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APPROVE NAME CHANGE:

Repair the stone/mortar walls of an 11'x 10' stone patio and a 21'x 14' stone patio on 100' of frontage.

With Conditions:

1. All work shall be in accordance with plans by Winnepesaukee Marine Construction dated March 18, 2002, as received by the Department on April 10, 2002.
2. Repairs shall maintain existing size, location and configuration.
3. Repairs shall be conducted by hand in the dry.
4. This permit to replace or repair existing structures shall not preclude the DES from taking any enforcement action or revocation action if it later determines that any "existing structures" were not previously permitted or grandfathered in their current configuration.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized.

With Findings:

1. This permit transfer is issued in accordance with NH Administrative Rule Wt 502.02.

**2005-01844                      DIXON RECREATIONAL CO LLC**  
**MOULTONBOROUGH   Unnamed Wetland**

Requested Action:

Dredge and fill 955 square feet including installation of a culvert to maintain flow for access in the expansion of an existing campground.

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Conservation Commission/Staff Comments:

The Moultonborough Conservation Commission signed this application.

APPROVE PERMIT:

Dredge and fill 955 square feet including installation of a culvert to maintain flow for access in the expansion of an existing campground.

With Conditions:

1. All work shall be in accordance with plans by David M Dolan Associates PC dated July 19, 2005, as received by the Department on August 11, 2005.
2. This permit is contingent on approval by the DES Subsurface Systems Bureau.
3. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
4. Work shall be done during periods of non-flow.
5. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
6. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
8. Proper headwalls shall be constructed within seven days of culvert installation.
9. Culvert outlets shall be protected in accordance with the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).be properly rip rapped. (REWORD)
10. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
11. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(f); Projects involving alteration of less than 3,000 square feet in swamps or wet meadows that are not in prime wetlands or do not meet the requirements of Wt 303.02(k), provided that no previous department permit has placed restrictions on the property of the applicant
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

**2005-02154                      MACLENNAN, DOUGLAS**  
**EXETER   Unnamed Wetland**

Requested Action:

Temporarily impact a total of 666 square feet of forested wetland to include 486 square feet of impact for the installation of underground utility line and 180 square feet of impact for the installation of four(4) 12-inch by 20-foot culverts along an existing driveway to maintain proper drainage for access to a single family residential lot.

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Conservation Commission/Staff Comments:

The Exeter Conservation Commission signed the Minimum Impact Expedited Application.

APPROVE PERMIT:

Temporarily impact a total of 666 square feet of forested wetland to include 486 square feet of impact for the installation of underground utility line and 180 square feet of impact for the installation of four(4) 12-inch by 20-foot culverts along an existing driveway to maintain proper drainage for access to a single family residential lot.

With Conditions:

1. All work shall be in accordance with plans by R.S.L Layout & Design dated September 4, 1997, as received by the Department on September 15, 2005.
2. DES staff shall be notified in writing prior to commencement of work and upon its completion.
3. Additional expedited minimum impact applications shall be accepted for the subject property for a period of 12 months only if the applicant demonstrates by plan that the additional project(s) are wholly unrelated or separate from the original application and when considered with the original application are not classified as minor or major.
4. No fill shall be done to achieve septic setback and no dredging shall take place that would contradict the DES Subsurface Systems Bureau rules.
5. No fill shall be done for lot development.
6. No fill shall take place in Atlantic white cedar swamps.
7. Work shall be done during low flow conditions.
8. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
9. Proper headwalls shall be constructed within seven days of culvert installation.
10. All disturbed areas shall be regraded to original contours and stabilized within 72 hours following completion of work using seed and mulch during the growing season, or if not within the growing season, by mulching with tack or netting and pinning.
11. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(f), alteration of less than 3,000 square feet of forested wetland.
2. Per Wt 302.01, the need for the proposed impacts has been demonstrated by the applicant as the culverts are needed to maintained proper flowage of water on either side of the existing driveway.
3. Jones & Beach Engineers conducted a drainage analysis concluding that 12-inch culverts will adequately pass a 50-year storm event.
4. Per Wt 302.03, the applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction as the utility lines must be underground due to their proximity to the existing PSNH power lines that run parallel to the existing drive. Additionally, said impacts will be temporary.
5. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
6. Pursuant to Wt 304.04, the applicant obtained written concurrence from the abutter identified as Richard Bernier (Exeter Tax Map 18 Lot 1) relative to those impacts with 20-feet of their property line.
7. Although this property directly abuts prime wetland, the proposed activities will not adversely affect the prime wetland as they are over 1000-feet away. A conservation easement exists between the prime wetland and the proposed property, thereby leaving a sufficient buffer to the prime wetland.

**2005-02155                      SMITH, MARY**  
**MOULTONBOROUGH   Unnamed Wetland**

Requested Action:

Dredge and fill 358 square feet of wet meadow for access to a proposed electrical substation.

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Conservation Commission/Staff Comments:

The conservation commission signed this minimum impact form.

APPROVE PERMIT:

Dredge and fill 358 square feet of wet meadow for access to a proposed electrical substation.

With Conditions:

1. All work shall be in accordance with plans by David M Dolan and Associates PC dated August 30, 2005, as received by the Department on September 15, 2005.
2. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
3. Work shall be conducted during low water conditions.
4. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
5. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
6. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(f); Projects involving alteration of less than 3,000 square feet in swamps or wet meadows that are not in prime wetlands or do not meet the requirements of Wt 303.02(k), provided that no previous department permit has placed restrictions on the property of the applicant.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

**2005-02156                      171 WATSON RD OF DOVER HOLDING CORP**  
**DOVER   Unnamed Wetland Cocheco River**

**2005-02201                      FRANCHI, DEBRA**  
**TAMWORTH   Unnamed Pond**

Requested Action:

Dredge 2130 square feet of a man-made pond for maintenance and install 12-inch x 95-foot PVC pond overflow in upland that connects to existing drainage on property.

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Conservation Commission/Staff Comments:

See phone note 9/28/05 for overflow construction specifics.



**APPROVE PERMIT:**

Dredge 2130 square feet of a man-made pond for maintenance and install 12-inch x 95-foot PVC pond overflow in upland that connects to existing drainage on property.

**With Conditions:**

1. All work shall be in accordance with plans by David Weathers dated July 2005, as received by the Department on August 10, 2005 and phone note dated September 28, 2005 between the Agent and DES.
2. All work shall be done in the dry or under draw down conditions.
3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
4. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
5. Dewatering of dredge materials, if required, shall be conducted in a manner so as to prevent turbidity.
6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.

**With Findings:**

1. This is a minimum impact project per Administrative Rule Wt 303.04(k), maintenance dredging, when necessary to provide continued usefulness of man-made ponds.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

**ROADWAY MAINTENANCE NOTIF**

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**2005-02475                      NH DEPT OF TRANSPORTATION**  
**STODDARD   Roadside Ditch**

**2005-02477                      NH DEPT OF TRANSPORTATION**  
**SULLIVAN   Unnamed Stream**

**2005-02478                      NH DEPT OF TRANSPORTATION**  
**SHARON   Unnamed Stream**

**2005-02479                      NH DEPT OF TRANSPORTATION**  
**NEW IPSWICH   Unnamed Stream**

**PERMIT BY NOTIFICATION**

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**2005-02135                      MERCHAND, RAYMOND**  
**MONROE   Unnamed Wetland**

Requested Action:

Dredge and fill approximately 300 square feet of man-made drainage to install a 24-inch x 30-foot culvert for improved access to existing road.

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Conservation Commission/Staff Comments:

This fapplication was submitted as a PBN, was disqualified 09/21/05 and resubmitted as a Standard Dredge and Fill 10/06/05

APPROVE PERMIT:

Dredge and fill approximately 300 square feet of man-made drainage to install a 24-inch x 30-foot culvert for improved access to existing road.

With Conditions:

1. All work shall be in accordance with plans by Raymond Merchand, as received by the Department on October 6, 2005.
2. Work shall be done during low flow.
3. There shall be no excavation or operation of construction equipment in flowing water.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
5. Dredged material shall be placed outside of the jurisdiction of the Department.
6. Proper headwalls shall be constructed within seven days of culvert installation.
7. Culverts shall be laid at original grade.
8. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
9. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
10. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
11. Construction equipment shall be inspected daily for leaking fuel, oil and hydraulic fluid prior to entering surface waters or wetlands.
12. Faulty equipment shall be repaired prior to entering jurisdictional areas.
13. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
14. All refueling of equipment shall occur outside of surface waters or wetlands during construction.
15. Photographs of the completed project shall be submitted to the Department within 30 days of the completion of construction.

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(f), alteration of less than 3,000 square feet of swamp or wet meadow.

2. The Burke View Drive upgrade is needed to comply with Town of Monroe road specifications.
3. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

**2005-02447                      RUSS, JENNIFER**  
**SALISBURY   Unnamed Wetland**

Requested Action:

Dredge and fill 136 square feet of palustrine forested wetland including installation of a 24-inch x 12 foot culvert for access.

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PBN IS COMPLETE:

Dredge and fill 136 square feet of palustrine forested wetland including installation of a 24-inch x 12 foot culvert for access.

**2005-02461                      CRYSTAL LAKE FARMS LLC**  
**GILMANTON IRON WORKS   Unnamed Stream**

Requested Action:

Dredge and fill 55 square feet along 20 feet of intermittent stream to install a 20 foot x 18-inch culvert for access.

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PBN IS COMPLETE:

Dredge and fill 55 square feet along 20 feet of intermittent stream to install a 20 foot x 18-inch culvert for access.